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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,224	01/27/2004	Alan Phillips	JK01509	2591

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THE BLACK & DECKER CORPORATION  
701 EAST JOPPA ROAD, TW199  
TOWSON, MD 21286

EXAMINER
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KOCZO JR, MICHAEL

ART UNIT	PAPER NUMBER
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3746

MAIL DATE	DELIVERY MODE
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01/07/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/767,224

Applicant(s)

PHILLIPS, ALAN

Examiner

Michael Koczo, Jr.

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 09 November 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-44 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-44 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 09 November 2007 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 10 and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. There is no description in the specification of how the first pressure tank is pneumatically isolated from the second pressure tank. This would impose an undue burden on one of ordinary skill in the art to make and use the invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 10, 14, 15, 25, 29, 30 and 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5, line 9, there is no antecedent basis for "said threshold value".

In claim 5, line 10, there is no antecedent basis for “the active portion of the power tool”.

In claim 5, it is noted that line 8 ends with a period. It would appear that lines 9 to 12 were added in error.

In claims 15 and 30, no structure is recited which would minimize dust. There is furthermore no basis of comparison for “minimize”.

Claims 14, 29 and 41 are indefinite because it is not seen how a compressor is able to supply nails. A compressor merely supplies compressed gas.

The scope of claims 10 and 25 cannot be ascertained due to their basis on a non-enabling disclosure.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 to 9, 11 to 24 and 26 to 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leighton et al (US 6,676,382) in view of Eggert (US 6,562,509). Leighton et al disclose an electric motor driven pump. The motor is a direct current (DC) motor which can be powered by a conventional AC source (rectified to DC) or DC from a battery. When AC power is unavailable, the pump is switched to operate on DC from the battery. However, in Leighton et al the battery would appear to be hard wired to the system. Leighton et al do not disclose a docking station for receiving a removable rechargeable battery. Eggert discloses that

it is known to provide rechargeable batteries with docking stations. A docking station facilitates removal of the battery from the driven device for substitution of another battery, for example. In view of these teachings, it would have been obvious to provide the pump of Leighton et al with a docking station for connecting the battery. In claim 1, reciting that the pump is "for generating a supply of compressed air" is merely a recitation of the intended use of the pump. The pump of Leighton et al is clearly capable of compressing air. No structure is recited in the claims which would render applicant's pump any more capable of compressing air than the pump of Leighton et al.

Claims 3, 18 and 32 (para. 5) merely recite the intended use of the battery. The battery of Leighton et al, as modified by Eggert, is clearly capable of use with one or more tools.

Regarding claims 6, 7, 21, 22, 35 and 36, Leighton et al disclose batteries having a voltage of 12V or 24V. The specific voltage claimed (19.2V) is not deemed critical.

Regarding claims 8, 23 and 37, these claims merely recite the intended use of the battery. The battery of Leighton et al, as modified by Eggert, is clearly capable of use with any electrically powered device.

Regarding claims 9, 24 and 38, the use of plural docking stations is deemed to be a mere duplication of parts. Furthermore, Official Notice is taken of the fact that it is known to connect batteries in parallel for increased capacity.

Regarding claims 12 and 27, these claims merely recite a desired pressure which is not structurally limiting. No structure is recited in these claims which would render applicant's pump any more capable of compressing air to the desired pressure than the pump of Leighton et al.

Regarding claims 13, 28, 31, 40 and 43, no structure is recited in these claim which would render applicant's pump any more portable than the pump of Leighton et al.

Claims 10 and 25, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cherry et al (US 6,991,437) in view of Leighton et al and Eggert. Cherry et al disclose an air compressor having plural tanks. However, Cherry et al do not disclose AC and DC power sources and a docking station. Leighton et al and Eggert teach AC and DC power sources and the use of a docking station, respectively. In view of these teachings, it would have been obvious to provide the compressor of Cherry et al with AC and DC power sources, and with a docking station.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 44 is rejected under 35 U.S.C. 102(e) as being anticipated by Leighton et al.

Leighton et al disclose a motor driven pump wherein the motor is powered from a battery when conventional AC power is unavailable. The batteries of Leighton et al are readable as being "removable", such as by disconnecting wires 210 and 212.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

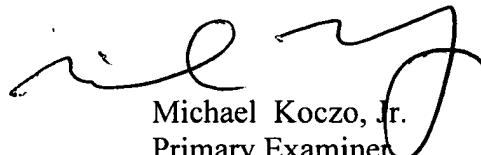
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry relating to patent applications in general should be directed to the Patent Assistance Center at 1-800-786-9199.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Koczo, Jr. whose telephone number is 571-272-4830. The examiner can normally be reached on M-Th; 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon C. Kramer can be reached at 571-272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Koczo, Jr.  
Primary Examiner  
Art Unit 3746